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January 5, 2018

VIA ECF

The Honorable Alison J. Nathan
United States District Judge
United States District Court – S.D.N.Y.
40 Foley Square, Room 2102
New York, New York 10007

**Re: City of Almaty, Kazakhstan, et ano. v. Mukhtar Ablyazov, et al.,
Case No. 15-CV-5345 (AJN)(KHP)**

Dear Judge Nathan:

We represent Triadou SPV S.A. (“Triadou”) and submit this letter in response to the January 4, 2018 letter of the City of Almaty and BTA Bank (together, “Almaty/BTA”) accompanying their motion seeking reconsideration of the Court’s December 23, 2016 Order dismissing the RICO Crossclaims. (ECF 516). Triadou does not object to Almaty/BTA seeking reconsideration in light of the Second Circuit’s recent decision in *Bascuñán v. Elsaca*, 874 F.3d 806 (2d Cir. 2017), although it does not believe the Second Circuit’s decision should change this Court’s ruling. Triadou does, however, respectfully seek an extension of time to file its response to Almaty/BTA’s motion from January 18, 2018 to February 23, 2018. While Triadou’s requested extension may appear lengthy at first blush, it is set for two weeks after the close of fact discovery (scheduled for February 9, 2018), and will follow multiple important events scheduled to be completed before fact discovery closes. Several of these events also will require substantial preparation and travel. Consequently, there is good cause to extend Triadou’s time to respond.

The events that are scheduled to occur before the close of fact discovery include:

1. The deposition of non-party Aleksandr Udovenko, on January 10, 2018;
2. The service of Requests for Admission, on January 11, 2018;
3. The deposition of non-party Jody Hudson, on January 12, 2018;
4. The deposition of non-party Luigi Rosabianca, on January 17, 2018, at the Altona Correctional Facility in upstate New York;¹
5. The deposition of non-party Kevin Meyer, during the week of January 15, 2018, in Philadelphia;

¹ Travel to Altona requires a six-hour drive from New York City or several hours of flying and driving.



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6. A settlement conference before Magistrate Judge Parker, on January 24, 2018, (ECF 432), which will require the submission of letters on January 17, 2018;
7. The deposition of Individual Defendant Viktor Khrapunov during the final week of January 2018, in Switzerland;
8. The deposition of Individual Defendant Ilyas Khrapunov during the final week of January 2018, in Switzerland;
9. The deposition of non-party Gennady Petelin, on February 6, 2018, in California; and
10. Responding to Requests for Admission by February 9, 2018.²

As to the parties' efforts to agree on a briefing schedule, Triadou initially responded to Almaty/BTA's proposal by suggesting a schedule that would have required Almaty/BTA to file their opening brief on January 3, 2018, defendants to file their responses on January 24, 2018, and Almaty/BTA to then file their reply brief on February 2, 2018. (Ex. 1 at 4). At the same time, Triadou also asked the parties to jointly seek postponement of the settlement conference. Triadou offered this proposal on December 11, 2017. (*Id.*). Almaty/BTA responded nine days later, but only as to Triadou's proposed briefing schedule, (*id.* at 3-4); to date, and despite persistent requests, Almaty/BTA have not provided their position on postponing the settlement conference.

Because Almaty/BTA would not provide feedback regarding Triadou's request to postpone the settlement conference, and because the parties began discussing firm dates for scheduling the Khrapunovs' depositions in Switzerland, on December 22, 2017, Triadou proposed a new schedule that would have required Almaty/BTA to file their opening motion on February 2, defendants to file their responses on February 23, and Almaty/BTA to file any replies on March 2, 2018 (the "December 22 Proposal"). (Ex. 1 at 1). Almaty/BTA did not respond to the December 22 proposal; nor did they provide any notice that they were unilaterally ceasing negotiations before filing their letter and reconsideration motion.³

Accordingly, and in light of these considerations, Triadou maintains that its December 22 proposed schedule that sets the time for its response to February 23 is an appropriate and advisable schedule for briefing Almaty/BTA's reconsideration motion. Fact discovery in this action has been extended three times, (*see* ECF 443), so permitting the parties to focus on completing major tasks and overseas depositions of the Individual Defendants is of paramount importance, particularly when weighed against briefing that can be completed efficiently when unimpeded by other events. In turn, Triadou's proposed schedule will only marginally extend the completion of briefing on

² Additionally, the deposition of Individual Defendant Mukhtar Ablyazov has not yet occurred. The parties also have two letter-motions pending before Magistrate Judge Parker that may require argument, and there are likely to be other discovery-related events that arise in this timeframe.

³ Because Almaty/BTA did not respond at all to Triadou's proposed February briefing schedule, (*see* Ex. 1 at 1), Triadou presumes that Almaty/BTA do not view the proposal as a "reasonable scheduling request" to which they would agree, (*see* ECF 516 at 2).



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Almaty/BTA's reconsideration motion, which is not time-sensitive. In fact, there does not appear to be any prejudice to Almaty/BTA in adopting Triadou's proposed schedule.⁴

Accordingly, Triadou respectfully requests that the Court extend its time to respond to Almaty/BTA's motion for reconsideration of the Court's dismissal of their RICO Crossclaims to February 23, 2018.

Respectfully submitted,

s/ Deborah A. Skakel
Deborah A. Skakel

⁴ If the Court does not view February 23, 2018 as an acceptable extension date, Triadou would suggest in the alternative an extension to January 26, 2018. This eight-day extension represents only a slight modification to Triadou's first counter-proposal to Almaty/BTA, which Almaty/BTA would have accepted absent Triadou's request to postpone the settlement conference. (*See* Ex. 1 at 3).